

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER ST.NO.11392 OF 2002**

The St. Sebastian Homes
Co-op Society Ltd.

...Appellant

vs.

M/s. United Builders

...Respondent

**CORAM: A.S.OKA, J.
DATE : APRIL 8, 2005.**

P.C.:

1. Heard Shri Jamdar for the Appellant-Plaintiff. The challenge in this Appeal from Order is to the Judgment and Order dated 4th September 2001 by which Notice of Motion taken out by the Appellant-Plaintiff for temporary injunction has been rejected.

2. It is not in dispute that for last more than three and half years i.e. from 4th September 2001 there is no ad-interim relief operating in favour of the Appellant-Plaintiff. Grant of temporary injunction is always discretionary. At this stage, after lapse of three and half years, no interference is called for against the discretionary order passed by the Trial Court on 4th September 2001.

3. Shri Jamdar submitted that there is a change of circumstances as a result of discharge of the Court Receiver. If the circumstances are drastically changed after 4th September 2001, it is for the Applicant to adopt appropriate

proceedings by invoking appropriate provisions of law.

4. Subject to observations made above, Appeal from Order is dismissed with no order as to costs.

5. All contentions of the parties in pending suit are expressly kept open.

JUDGE.